

PREVAILED

Roll Call No. \_\_\_\_\_

FAILED

Ayes \_\_\_\_\_

WITHDRAWN

Noes \_\_\_\_\_

RULED OUT OF ORDER

## HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that Engrossed Senate Bill 247 be amended to read as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning state
- 3 and local administration
- 4 Page 1, between the enacting clause and line 1, begin a new
- 5 paragraph and insert:
- 6 "SECTION 1. IC 6-2.5-4-11 IS AMENDED TO READ AS
- 7 FOLLOWS [EFFECTIVE MARCH 1, 2004 (RETROACTIVE)]; Sec.
- 8 11. (a) A person is a retail merchant making a retail transaction when
- 9 ~~he the person~~ furnishes ~~local~~ cable television **or radio** service or
- 10 ~~intrastate cable satellite~~ television **or radio** service **that terminates in**
- 11 **Indiana.**
- 12 (b) Notwithstanding subsection (a), a person is not a retail merchant
- 13 making a retail transaction when the person provides, installs,
- 14 constructs, services, or removes tangible personal property which is
- 15 used in connection with the furnishing of ~~local~~ cable television **or radio**
- 16 service or ~~intrastate cable satellite~~ **or radio** television service.
- 17 SECTION 2. IC 6-3-1-3.5, AS AMENDED BY P.L.1-2004,
- 18 SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 19 JANUARY 1, 2004 (RETROACTIVE)]; Sec. 3.5. When used in this
- 20 article, the term "adjusted gross income" shall mean the following:
- 21 (a) In the case of all individuals, "adjusted gross income" (as defined
- 22 in Section 62 of the Internal Revenue Code), modified as follows:
- 23 (1) Subtract income that is exempt from taxation under this article
- 24 by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 62 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(3) Subtract one thousand dollars (\$1,000), or in the case of a joint return filed by a husband and wife, subtract for each spouse one thousand dollars (\$1,000).

(4) Subtract one thousand dollars (\$1,000) for:

(A) each of the exemptions provided by Section 151(c) of the Internal Revenue Code;

(B) each additional amount allowable under Section 63(f) of the Internal Revenue Code; and

(C) the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(5) Subtract:

(A) one thousand five hundred dollars (\$1,500) for each of the exemptions allowed under Section 151(c)(1)(B) of the Internal Revenue Code for taxable years beginning after December 31, 1996; and

(B) five hundred dollars (\$500) for each additional amount allowable under Section 63(f)(1) of the Internal Revenue Code if the adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse in the case of a joint return, is less than forty thousand dollars (\$40,000).

This amount is in addition to the amount subtracted under subdivision (4).

(6) Subtract an amount equal to the lesser of:

(A) that part of the individual's adjusted gross income (as defined in Section 62 of the Internal Revenue Code) for that taxable year that is subject to a tax that is imposed by a political subdivision of another state and that is imposed on or measured by income; or

(B) two thousand dollars (\$2,000).

(7) Add an amount equal to the total capital gain portion of a lump sum distribution (as defined in Section 402(e)(4)(D) of the Internal Revenue Code) if the lump sum distribution is received by the individual during the taxable year and if the capital gain portion of the distribution is taxed in the manner provided in Section 402 of the Internal Revenue Code.

(8) Subtract any amounts included in federal adjusted gross income under Section 111 of the Internal Revenue Code as a recovery of items previously deducted as an itemized deduction from adjusted gross income.

(9) Subtract any amounts included in federal adjusted gross

1 income under the Internal Revenue Code which amounts were  
2 received by the individual as supplemental railroad retirement  
3 annuities under 45 U.S.C. 231 and which are not deductible under  
4 subdivision (1).

5 (10) Add an amount equal to the deduction allowed under Section  
6 221 of the Internal Revenue Code for married couples filing joint  
7 returns if the taxable year began before January 1, 1987.

8 (11) Add an amount equal to the interest excluded from federal  
9 gross income by the individual for the taxable year under Section  
10 128 of the Internal Revenue Code if the taxable year began before  
11 January 1, 1985.

12 (12) Subtract an amount equal to the amount of federal Social  
13 Security and Railroad Retirement benefits included in a taxpayer's  
14 federal gross income by Section 86 of the Internal Revenue Code.

15 (13) In the case of a nonresident taxpayer or a resident taxpayer  
16 residing in Indiana for a period of less than the taxpayer's entire  
17 taxable year, the total amount of the deductions allowed pursuant  
18 to subdivisions (3), (4), (5), and (6) shall be reduced to an amount  
19 which bears the same ratio to the total as the taxpayer's income  
20 taxable in Indiana bears to the taxpayer's total income.

21 (14) In the case of an individual who is a recipient of assistance  
22 under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or  
23 IC 12-15-7, subtract an amount equal to that portion of the  
24 individual's adjusted gross income with respect to which the  
25 individual is not allowed under federal law to retain an amount to  
26 pay state and local income taxes.

27 (15) In the case of an eligible individual, subtract the amount of a  
28 Holocaust victim's settlement payment included in the individual's  
29 federal adjusted gross income.

30 (16) For taxable years beginning after December 31, 1999,  
31 subtract an amount equal to the portion of any premiums paid  
32 during the taxable year by the taxpayer for a qualified long term  
33 care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the  
34 taxpayer's spouse, or both.

35 (17) Subtract an amount equal to the lesser of:

36 (A) for a taxable year:

37 (i) including any part of 2004, the amount determined under  
38 subsection (f); and

39 (ii) beginning after December 31, 2004, two thousand five  
40 hundred dollars (\$2,500); or

41 (B) the amount of property taxes that are paid during the  
42 taxable year in Indiana by the individual on the individual's  
43 principal place of residence.

44 (18) Subtract an amount equal to the amount of a September 11  
45 terrorist attack settlement payment included in the individual's  
46 federal adjusted gross income.

(19) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

**(20) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.**

**(21) Subject to subsection (g), add an amount equal to intangibles payments described in section 34 of this chapter that are directly or indirectly paid, accrued, or incurred to a related member during the taxable year to the extent the intangibles payments are deductible in calculating federal adjusted gross income under the Internal Revenue Code.**

(b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.

(3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

**(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.**

**(7) Subject to subsection (g), add an amount equal to intangibles payments described in section 34 of this chapter that are directly or indirectly paid, accrued, or incurred to a related member during the taxable year to the extent the intangibles payments are deductible in calculating federal**

**taxable income under the Internal Revenue Code.**

(c) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

**(6) Add an amount equal to any deduction allowed under Section 172 or Section 810 of the Internal Revenue Code.**

**(7) Subject to subsection (g), add an amount equal to intangibles payments described in section 34 of this chapter that are directly or indirectly paid, accrued, or incurred to a related member during the taxable year to the extent the intangibles payments are deductible in calculating federal taxable income under the Internal Revenue Code.**

(d) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the

company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

**(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.**

**(7) Subject to subsection (g), add an amount equal to intangibles payments described in section 34 of this chapter that are directly or indirectly paid, accrued, or incurred to a related member during the taxable year to the extent the intangibles payments are deductible in calculating federal taxable income under the Internal Revenue Code.**

(e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.

(3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

**(4) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.**

**(5) Subject to subsection (g), add an amount equal to intangibles payments described in section 34 of this chapter that are directly or indirectly paid, accrued, or incurred to a related member during the taxable year to the extent the intangibles payments are deductible in calculating federal taxable income under the Internal Revenue Code.**

(f) This subsection applies only to the extent that an individual paid

property taxes in 2004 that were imposed for the March 1, 2002, assessment date or the January 15, 2003, assessment date. The maximum amount of the deduction under subsection (a)(17) is equal to the amount determined under STEP FIVE of the following formula:

STEP ONE: Determine the amount of property taxes that the taxpayer paid after December 31, 2003, in the taxable year for property taxes imposed for the March 1, 2002, assessment date and the January 15, 2003, assessment date.

STEP TWO: Determine the amount of property taxes that the taxpayer paid in the taxable year for the March 1, 2003, assessment date and the January 15, 2004, assessment date.

STEP THREE: Determine the result of the STEP ONE amount divided by the STEP TWO amount.

STEP FOUR: Multiply the STEP THREE amount by two thousand five hundred dollars (\$2,500).

STEP FIVE: Determine the sum of the STEP THREE amount and two thousand five hundred dollars (\$2,500).

**(g) An adjustment under subsection (a)(21), (b)(7), (c)(7), (d)(7), or (e)(5) is not required to the extent that:**

**(1) the taxpayer establishes by a preponderance of the evidence, as determined by the department, that the adjustment is unreasonable;**

**(2) the taxpayer and the department agree in writing to the application or use of an alternative method of apportionment under IC 6-3-2-2(l); or**

**(3) the intangibles payments are being paid or incurred to a related member organized under the laws of a country other than the United States, and the other country has entered into a comprehensive income tax treaty with the United States.**

SECTION 3. IC 6-3-1-34 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 34. As used in this article, "intangibles payment" means a payment directly connected to the use, maintenance, or management of:**

**(1) stock;**

**(2) bonds;**

**(3) interests in partnerships;**

**(4) licenses;**

**(5) trademarks;**

**(6) copyrights;**

**(7) trade names;**

**(8) trade dress;**

**(9) service marks;**

- (10) mask works;
- (11) trade secrets;
- (12) patents; or
- (13) any other similar types of intangible assets, as determined by the department.

SECTION 4. IC 6-3-1-35 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 35. For purposes of this chapter, "related member" means, with respect to any taxpayer during all or any part of a taxable year:**

- (1) a person or corporation that is a related entity;
- (2) a person or corporation that is a component member (as defined in Section 1563(b) of the Internal Revenue Code);
- (3) a person or corporation to or from which there is attribution of stock ownership in accordance with Section 1563(e) of the Internal Revenue Code; or
- (4) a person, corporation, partnership, or any other pass through entity that, notwithstanding its form of organization, bears the same relationship to the taxpayer as a person or corporation described in subdivision (1), (2), or (3).

SECTION 5. IC 6-3-1-36 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 36. As used in this chapter, "related entity" means:**

- (1) a stockholder who is:
  - (A) an individual; or
  - (B) a member of the stockholder's family set forth in Section 318 of the Internal Revenue Code;
 if the stockholder and the members of the stockholder's family directly, indirectly, beneficially, or constructively own a total of at least fifty percent (50%) of the value of the taxpayer's outstanding stock;
- (2) a:
  - (A) stockholder; or
  - (B) stockholder's partnership, estate, trust, corporation, or other pass through entity;
 if the stockholder and the stockholder's partnership, estate, trust, or corporation directly, indirectly, beneficially, or constructively own a total of at least fifty percent (50%) of the value of the taxpayer's outstanding stock; or
- (3) a:
  - (A) corporation; or
  - (B) party related to the corporation in a manner that



would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of the Internal Revenue Code; if the taxpayer directly, indirectly, beneficially, or constructively owns a total of at least fifty percent (50%) of the value of the corporation's outstanding stock.

The attribution rules of the Internal Revenue Code apply for purposes of determining whether the ownership requirements of this definition have been met.

SECTION 6. IC 6-3-2-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 2.5. (a) This section applies to a resident person. ~~for a particular taxable year; if the taxpayer's adjusted gross income for that taxable year is reduced because of a deduction allowed under Section 172 of the Internal Revenue Code for a net operating loss. For purposes of section 1 of this chapter, the taxpayer's adjusted gross income, for the particular taxable year, is the remainder determined under STEP FOUR of the following formula:~~

STEP ONE: Determine the taxpayer's adjusted gross income, for the taxable year, as calculated without the deduction for net operating losses provided by Section 172 of the Internal Revenue Code.

STEP TWO: Determine, in the manner prescribed in subsection (b), the amount of the taxpayer's net operating losses that are deductible for the taxable year under Section 172 of the Internal Revenue Code, as adjusted to reflect the modifications required by IC 6-3-1-3.5.

STEP THREE: Enter the larger of zero (0) or the amount determined under STEP TWO.

STEP FOUR: Subtract the amount entered under STEP THREE from the amount determined under STEP ONE.

(b) For purposes of STEP TWO of subsection (a), the modifications that are to be applied are those modifications required under IC 6-3-1-3.5 for the same taxable year during which each net operating loss was incurred. In addition, for purposes of STEP TWO of subsection (a), the following procedures apply:

(1) The taxpayer's net operating loss for a particular taxable year shall be treated as a positive number.

(2) A modification that is to be added to federal adjusted gross income or federal taxable income under IC 6-3-1-3.5 shall be treated as a negative number.

(3) A modification that is to be subtracted from federal adjusted gross income or federal taxable income under IC 6-3-1-3.5 shall be treated as a positive number.

(b) Resident persons are entitled to a net operating loss

1 deduction. The amount of the deduction taken in a taxable year  
 2 may not exceed the taxpayer's unused Indiana net operating  
 3 losses carried back or carried over to that year.

4 (c) An Indiana net operating loss equals the taxpayer's federal  
 5 net operating loss for a taxable year as calculated under Section  
 6 172 of the Internal Revenue Code, adjusted for the modifications  
 7 required by IC 6-3-1-3.5.

8 (d) The following provisions apply for purposes of subsection  
 9 (c):

10 (1) The modifications that are to be applied are those  
 11 modifications required under IC 6-3-1-3.5 for the same  
 12 taxable year in which each net operating loss was incurred.

13 (2) An Indiana net operating loss includes a net operating  
 14 loss that arises when the modifications required by  
 15 IC 6-3-1-3.5 exceed the taxpayer's federal taxable income (as  
 16 defined in Section 62 of the Internal Revenue Code) for the  
 17 taxable year in which the Indiana net operating loss is  
 18 determined.

19 (e) Subject to the limitations contained in subsection (g), an  
 20 Indiana net operating loss carryback or carryover shall be  
 21 available as a deduction from the taxpayer's adjusted gross income  
 22 (as defined in IC 6-3-1-3.5) in the carryback or carryover year  
 23 provided in subsection (f).

24 (f) Carrybacks and carryovers shall be determined under this  
 25 subsection as follows:

26 (1) An Indiana net operating loss shall be an Indiana net  
 27 operating loss carryback to each of the carryback years  
 28 preceding the taxable year of the loss.

29 (2) An Indiana net operating loss shall be an Indiana net  
 30 operating loss carryover to each of the carryover years  
 31 following the taxable year of the loss.

32 (3) Carryback years shall be determined by reference to the  
 33 number of years allowed for carrying back a net operating  
 34 loss under Section 172(b) of the Internal Revenue Code.

35 (4) Carryover years shall be determined by reference to the  
 36 number of years allowed for carrying over net operating  
 37 losses under Section 172(b) of the Internal Revenue Code.

38 (5) A taxpayer who makes an election under Section  
 39 172(b)(3) of the Internal Revenue Code to relinquish the  
 40 carryback period with respect to a net operating loss for any  
 41 taxable year shall be considered to have also relinquished the  
 42 carryback of the Indiana net operating loss for purposes of  
 43 this section.

(g) The entire amount of the Indiana net operating loss for any taxable year shall be carried to the earliest of the taxable years to which (as determined under subsection (f)) the loss may be carried. The amount of the Indiana net operating loss remaining after the deduction is taken under this section in a taxable year may be carried back or carried over as provided in subsection (f). The amount of the Indiana net operating loss carried back or carried over from year to year shall be reduced to the extent that the Indiana net operating loss carryback or carryover is used by the taxpayer to obtain a deduction in a taxable year until the occurrence of the earlier of the following:

(1) The entire amount of the Indiana net operating loss has been used as a deduction.

(2) The Indiana net operating loss has been carried over to each of the carryover years provided by subsection (f).

SECTION 7. IC 6-3-2-2.6, AS AMENDED BY P.L.192-2002(ss), SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 2.6. (a) This section applies to a corporation or a nonresident person. for a particular taxable year, if the taxpayer's adjusted gross income for that taxable year is reduced because of a deduction allowed under Section 172 of the Internal Revenue Code for a net operating loss. For purposes of section 1 of this chapter, the taxpayer's adjusted gross income, for the particular taxable year, derived from sources within Indiana is the remainder determined under STEP FOUR of the following formula:

STEP ONE: Determine, in the manner prescribed in section 2 of this chapter, the taxpayer's adjusted gross income, for the taxable year, derived from sources within Indiana, as calculated without the deduction for net operating losses provided by Section 172 of the Internal Revenue Code.

STEP TWO: Determine, in the manner prescribed in subsection (b), the amount of the taxpayer's net operating losses that are deductible for the taxable year under Section 172 of the Internal Revenue Code, as adjusted to reflect the modifications required by IC 6-3-1-3.5, and that are derived from sources within Indiana.

STEP THREE: Enter the larger of zero (0) or the amount determined under STEP TWO.

STEP FOUR: Subtract the amount entered under STEP THREE from the amount determined under STEP ONE.

(b) For purposes of STEP TWO of subsection (a), the modifications that are to be applied are those modifications required under IC 6-3-1-3.5 for the same taxable year during which each net operating loss was incurred. In addition, for purposes of STEP TWO of subsection (a), the amount of a taxpayer's net operating losses that are derived from sources within Indiana shall be determined in the same

manner that the amount of the taxpayer's income derived from sources within Indiana is determined; under section 2 of this chapter; for the same taxable year during which each loss was incurred. Also, for purposes of STEP TWO of subsection (a); the following procedures apply:

(1) The taxpayer's net operating loss for a particular taxable year shall be treated as a positive number.

(2) A modification that is to be added to federal adjusted gross income or federal taxable income under IC 6-3-1-3.5 shall be treated as a negative number.

(3) A modification that is to be subtracted from federal adjusted gross income or federal taxable income under IC 6-3-1-3.5 shall be treated as a positive number.

(4) A net operating loss under this section shall be considered even though in the year the taxpayer incurred the loss the taxpayer was not subject to the tax imposed under section 1 of this chapter because the taxpayer was:

(A) a life insurance company (as defined in Section 816(a) of the Internal Revenue Code); or

(B) an insurance company subject to tax under Section 831 of the Internal Revenue Code.

(b) Corporations and nonresident persons are entitled to a net operating loss deduction. The amount of the deduction taken in a taxable year may not exceed the taxpayer's unused Indiana net operating losses carried back or carried over to that year.

(c) An Indiana net operating loss equals the taxpayer's federal net operating loss for a taxable year as calculated under Section 172 of the Internal Revenue Code, derived from sources within Indiana and adjusted for the modifications required by IC 6-3-1-3.5.

(d) The following provisions apply for purposes of subsection (c):

(1) The modifications that are to be applied are those modifications required under IC 6-3-1-3.5 for the same taxable year in which each net operating loss was incurred.

(2) The amount of the taxpayer's net operating loss that is derived from sources within Indiana shall be determined in the same manner that the amount of the taxpayer's adjusted income derived from sources within Indiana is determined under section 2 of this chapter for the same taxable year during which each loss was incurred.

(3) An Indiana net operating loss includes a net operating loss that arises when the modifications required by IC 6-3-1-3.5 exceed the taxpayer's federal taxable income (as

defined in Section 63 of the Internal Revenue Code), if the taxpayer is a corporation, or when the modifications required by IC 6-3-1-3.5 exceed the taxpayer's federal adjusted gross income (as defined by Section 62 of the Internal Revenue Code), if the taxpayer is a nonresident person, for the taxable year in which the Indiana net operating loss is determined.

(e) Subject to the limitations contained in subsection (g), an Indiana net operating loss carryback or carryover shall be available as a deduction from the taxpayer's adjusted gross income derived from sources within Indiana (as defined in section 2 of this chapter) in the carryback or carryover year provided in subsection (f).

(f) Carrybacks and carryovers shall be determined under this subsection as follows:

(1) An Indiana net operating loss shall be an Indiana net operating loss carryback to each of the carryback years preceding the taxable year of the loss.

(2) An Indiana net operating loss shall be an Indiana net operating loss carryover to each of the carryover years following the taxable year of the loss.

(3) Carryback years shall be determined by reference to the number of years allowed for carrying back a net operating loss under Section 172(b) of the Internal Revenue Code.

(4) Carryover years shall be determined by reference to the number of years allowed for carrying over net operating losses under Section 172(b) of the Internal Revenue Code.

(5) A taxpayer who makes an election under Section 172(b)(3) of the Internal Revenue Code to relinquish the carryback period with respect to a net operating loss for any taxable year shall be considered to have also relinquished the carryback of the Indiana net operating loss for purposes of this section.

(g) The entire amount of the Indiana net operating loss for any taxable year shall be carried to the earliest of the taxable years to which (as determined under subsection (f)) the loss may be carried. The amount of the Indiana net operating loss remaining after the deduction is taken under this section in a taxable year may be carried back or carried over as provided in subsection (f). The amount of the Indiana net operating loss carried back or carried over from year to year shall be reduced to the extent that the Indiana net operating loss carryback or carryover is used by the taxpayer to obtain a deduction in a taxable year until the

1 occurrence of the earlier of the following:

2 (1) The entire amount of the Indiana net operating loss has  
3 been used as a deduction.

4 (2) The Indiana net operating loss has been carried over to  
5 each of the carryover years provided by subsection (f).

6 (h) An Indiana net operating loss deduction determined under  
7 this section shall be allowed notwithstanding the fact that in the  
8 year the taxpayer incurred the net operating loss the taxpayer was  
9 not subject to the tax imposed under section 1 of this chapter  
10 because the taxpayer was:

11 (1) a life insurance company (as defined in Section 816(a) of  
12 the Internal Revenue Code); or

13 (2) an insurance company subject to tax under Section 831 of  
14 the Internal Revenue Code.

15 (i) In the case of a life insurance company that claims an  
16 operations loss deduction under Section 810 of the Internal  
17 Revenue Code, this section shall be applied by:

18 (1) substituting the corresponding provisions of Section 810  
19 of the Internal Revenue Code in place of references to  
20 Section 172 of the Internal Revenue; and

21 (2) substituting life insurance company taxable income (as  
22 defined in Section 801 of the Internal Revenue Code) in  
23 place of references to taxable income (as defined in Section  
24 63 of the Internal Revenue Code).

25 (j) For purposes of an amended return filed to carry back an  
26 Indiana net operating loss:

27 (1) the term "due date of the return" as used in  
28 IC 6-8.1-9-1(a)(1) means the due date of the return for the  
29 taxable year in which the net operating loss was incurred;  
30 and

31 (2) the term "date the payment was due" as used in  
32 IC 6-8.1-9-2(c) means the due date of the return for the  
33 taxable year in which the net operating loss was incurred.

34 SECTION 8. IC 6-5.5-1-2, AS AMENDED BY P.L.105-2003,  
35 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
36 JANUARY 1, 2004 (RETROACTIVE)]: Sec. 2. (a) Except as provided  
37 in subsections (b) through (d), "adjusted gross income" means taxable  
38 income as defined in Section 63 of the Internal Revenue Code, adjusted  
39 as follows:

40 (1) Add the following amounts:

41 (A) An amount equal to a deduction allowed or allowable under  
42 Section 166, Section 585, or Section 593 of the Internal  
43 Revenue Code.

44 (B) An amount equal to a deduction allowed or allowable under

- 1 Section 170 of the Internal Revenue Code.
- 2 (C) An amount equal to a deduction or deductions allowed or
- 3 allowable under Section 63 of the Internal Revenue Code for
- 4 taxes based on or measured by income and levied at the state
- 5 level by a state of the United States or levied at the local level
- 6 by any subdivision of a state of the United States.
- 7 (D) The amount of interest excluded under Section 103 of the
- 8 Internal Revenue Code or under any other federal law, minus
- 9 the associated expenses disallowed in the computation of
- 10 taxable income under Section 265 of the Internal Revenue
- 11 Code.
- 12 (E) An amount equal to the deduction allowed under Section
- 13 172 or 1212 of the Internal Revenue Code for net operating
- 14 losses or net capital losses.
- 15 (F) For a taxpayer that is not a large bank (as defined in
- 16 Section 585(c)(2) of the Internal Revenue Code), an amount
- 17 equal to the recovery of a debt, or part of a debt, that becomes
- 18 worthless to the extent a deduction was allowed from gross
- 19 income in a prior taxable year under Section 166(a) of the
- 20 Internal Revenue Code.
- 21 (G) ~~Add~~ The amount necessary to make the adjusted gross
- 22 income of any taxpayer that owns property for which bonus
- 23 depreciation was allowed in the current taxable year or in an
- 24 earlier taxable year equal to the amount of adjusted gross
- 25 income that would have been computed had an election not
- 26 been made under Section 168(k)(2)(C)(iii) of the Internal
- 27 Revenue Code to apply bonus depreciation to the property in
- 28 the year that it was placed in service.
- 29 **(H) An amount equal to:**
- 30 **(i) interest expenses and costs; and**
- 31 **(ii) intangible expenses and costs;**
- 32 **directly paid, accrued, or incurred to or in connection with**
- 33 **one (1) or more transactions with one (1) or more related**
- 34 **members in the taxable year.**
- 35 (2) Subtract the following amounts:
- 36 (A) Income that the United States Constitution or any statute
- 37 of the United States prohibits from being used to measure the
- 38 tax imposed by this chapter.
- 39 (B) Income that is derived from sources outside the United
- 40 States, as defined by the Internal Revenue Code.
- 41 (C) An amount equal to a debt or part of a debt that becomes
- 42 worthless, as permitted under Section 166(a) of the Internal
- 43 Revenue Code.
- 44 (D) An amount equal to any bad debt reserves that are included
- 45 in federal income because of accounting method changes

required by Section 585(c)(3)(A) or Section 593 of the Internal Revenue Code.

(E) ~~Subtract~~ The amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation.

(b) In the case of a credit union, "adjusted gross income" for a taxable year means the total transfers to undivided earnings minus dividends for that taxable year after statutory reserves are set aside under IC 28-7-1-24.

(c) In the case of an investment company, "adjusted gross income" means the **sum of the** company's federal taxable income, **as adjusted under subsection (e)**, multiplied by the quotient of:

(1) the aggregate of the gross payments collected by the company during the taxable year from old and new business upon investment contracts issued by the company and held by residents of Indiana; divided by

(2) the total amount of gross payments collected during the taxable year by the company from the business upon investment contracts issued by the company and held by persons residing within Indiana and elsewhere.

(d) As used in subsection (c), "investment company" means a person, copartnership, association, limited liability company, or corporation, whether domestic or foreign, that:

(1) is registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.); and

(2) solicits or receives a payment to be made to itself and issues in exchange for the payment:

(A) a so-called bond;

(B) a share;

(C) a coupon;

(D) a certificate of membership;

(E) an agreement;

(F) a pretended agreement; or

(G) other evidences of obligation;

entitling the holder to anything of value at some future date, if the gross payments received by the company during the taxable year on outstanding investment contracts, plus interest and dividends earned on those contracts (by prorating the interest and dividends earned on investment contracts by the same proportion that certificate reserves (as defined by the Investment Company Act of 1940) is to the company's total assets) is at least fifty percent (50%) of the company's gross payments upon investment



contracts plus gross income from all other sources except dividends from subsidiaries for the taxable year. The term "investment contract" means an instrument listed in clauses (A) through (G).

**(e) The federal adjusted gross income of an investment company shall be adjusted by adding an amount equal to:**

**(1) interest expenses and costs; and**

**(2) intangible expenses and costs;**

**directly or indirectly paid, accrued, or incurred to or in connection with one (1) or more transactions with one (1) or more related members in the taxable year.**

**(f) An adjustment under subsection (a)(1)(H) or (e) is not required to the extent that:**

**(1) the taxpayer establishes by a preponderance of the evidence, as determined by the department, that the adjustment is unreasonable;**

**(2) the taxpayer and the department agree in writing to the application or use of an alternative method of apportionment; or**

**(3) the intangibles payments are being paid or incurred to a related member organized under the laws of a country other than the United States, and the other country has entered into a comprehensive income tax treaty with the United States.**

SECTION 9. IC 6-5.5-1-10.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 10.5. For purposes of this chapter, "intangible investments" means investments in:**

**(1) patents;**

**(2) patent applications;**

**(3) trademarks;**

**(4) trade names;**

**(5) copyrights;**

**(6) similar types of intangible assets; and**

**(7) debt obligations of related members.**

SECTION 10. IC 6-5.5-1-12.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 12.5. For purposes of this chapter, "related member" means, with respect to any taxpayer during all or any part of a taxable year, an entity:**

**(1) that is a related entity;**

**(2) that is a component member (as defined in Section 1563(b) of the Internal Revenue Code);**

(3) to or from which there is attribution of stock ownership in accordance with Section 1563(e) of the Internal Revenue Code; or

(4) that, notwithstanding its form of organization, bears the same relationship to the taxpayer as a person or corporation described in subdivision (1), (2), or (3).

SECTION 11. IC 6-5.5-1-12.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 12.6. (a) As used in this chapter, "intangible expenses and costs" includes expenses, losses, and costs for, related to, or in connection directly or indirectly with the direct or indirect:**

- (1) acquisition;
- (2) use;
- (3) maintenance or management;
- (4) ownership;
- (5) sale; or
- (6) exchange;

of or any other direct or indirect disposition of intangible investments to the extent that the amounts are allowed as deductions or costs in determining taxable income before operating loss deductions and special deductions for the taxable year under the Internal Revenue Code.

(b) The term includes losses related to or incurred in connection directly or indirectly with:

- (1) factoring transactions;
- (2) losses related to or incurred in connection directly or indirectly with:
  - (A) discounting transactions;
  - (B) royalty, patent, technical, and copyright fees;
  - (C) licensing fees; and
  - (D) other similar expenses and costs.

SECTION 12. IC 6-5.5-1-12.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 12.7. For purposes of this chapter, "interest expenses and costs" includes amounts directly or indirectly allowed as deductions under Section 163 of the Internal Revenue Code for purposes of determining taxable income under the Internal Revenue Code.**

SECTION 13. IC 6-5.5-1-12.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 12.8. As used in this chapter, "related entity" means:**

1 (1) a stockholder who is:

2 (A) an individual; or

3 (B) a member of the stockholder's family set forth in  
4 Section 318 of the Internal Revenue Code;

5 if the stockholder and the members of the stockholder's  
6 family directly, indirectly, beneficially, or constructively own  
7 a total of at least fifty percent (50%) of the value of the  
8 taxpayer's outstanding stock;

9 (2) a:

10 (A) stockholder; or

11 (B) stockholder's partnership, estate, trust, or  
12 corporation;

13 if the stockholder and the stockholder's partnership, estate,  
14 trust, or corporation directly, indirectly, beneficially, or  
15 constructively own a total of at least fifty percent (50%) of  
16 the value of the taxpayer's outstanding stock; or

17 (3) a:

18 (A) corporation; or

19 (B) party related to the corporation in a manner that  
20 would require an attribution of stock from the corporation  
21 to the party or from the party to the corporation under  
22 the attribution rules of the Internal Revenue Code;

23 if the taxpayer directly, indirectly, beneficially, or  
24 constructively owns a total of at least fifty percent (50%) of  
25 the value of the corporation's outstanding stock.

26 The attribution rules of the Internal Revenue Code apply for  
27 purposes of determining whether the ownership requirements of  
28 this definition have been met."

29 Page 3, after line 41, begin a new paragraph and insert:

30 "SECTION 15. IC 36-7-31.3-8, AS AMENDED BY P.L.178-2002,  
31 SECTION 126, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
32 UPON PASSAGE]: Sec. 8. (a) ~~Except as provided in subsection (d)~~; A  
33 designating body may designate as part of a professional sports and  
34 convention development area any facility that is:

35 (1) owned by the city, the county, a school corporation, or a  
36 board under IC 36-9-13, IC 36-10-8, IC 36-10-10, or  
37 IC 36-10-11, and used by a professional sports franchise for  
38 practice or competitive sporting events; or

39 (2) owned by the city, the county, or a board under IC 36-9-13,  
40 IC 36-10-8, IC 36-10-10, or IC 36-10-11, and used as one (1) of  
41 the following:

42 (A) A facility used principally for convention or tourism related  
43 events serving national or regional markets.

44 (B) An airport.

(C) A museum.

(D) A zoo.

(E) A facility used for public attractions of national significance.

(F) A performing arts venue.

(G) A county courthouse registered on the National Register of Historic Places.

A facility may not include a private golf course or related improvements. The tax area may include only facilities described in this section and any parcel of land on which a facility is located. An area may contain noncontiguous tracts of land within the city, county, or school corporation.

(b) Except for a tax area that is located in a city having a population of:

(1) more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000); or

(2) more than ninety thousand (90,000) but less than one hundred five thousand (105,000);

a tax area must include at least one (1) facility described in subsection (a)(1).

(c) ~~Except as provided in subsection (d);~~ A tax area may contain other facilities not owned by the designating body if:

(1) the facility is owned by a city, the county, a school corporation, or a board established under IC 36-9-13, IC 36-10-8, IC 36-10-10, or IC 36-10-11; and

(2) an agreement exists between the designating body and the owner of the facility specifying the distribution and uses of the covered taxes to be allocated under this chapter.

~~(d) In a city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000); the designating body may designate only one (1) facility as part of a tax area. The facility designated as part of the tax area may not be a facility described in subsection (a)(1).~~

SECTION 16. IC 36-7-31.3-19, AS AMENDED BY P.L.178-2002, SECTION 131, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. The resolution establishing the tax area must designate the use of the funds. The funds are to be used only for the following:

(1) Except in a tax area in a city having a population of:

(A) more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000); or

(B) more than ninety thousand (90,000) but less than one hundred five thousand (105,000);

a capital improvement that will construct or equip a facility owned by the city, the county, a school corporation, or a board under IC 36-9-13, IC 36-10-8, IC 36-10-10, or IC 36-10-11 and used by

a professional sports franchise for practice or competitive sporting events. In a tax area to which this subdivision applies, funds may also be used for a capital improvement that will construct or equip a facility owned by the city, the county, or a board under IC 36-9-13, IC 36-10-8, IC 36-10-10, or IC 36-10-11 and used for any purpose specified in section 8(a)(2) of this chapter.

(2) In a city having a population of more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000), a capital improvement that will construct or equip a facility owned by the city, the county, a school corporation, or a board under IC 36-9-13, IC 36-10-8, IC 36-10-10, or IC 36-10-11 and used for any purpose specified in section 8(a) of this chapter.

(3) In a city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000), a capital improvement that will construct or equip a facility owned by the city, the county, or a board under IC 36-9-13, IC 36-10-8, IC 36-10-10, or IC 36-10-11 and used for any purpose specified in section ~~8(a)(2)~~ **8(a)** of this chapter.

(4) The financing or refinancing of a capital improvement described in subdivision (1), (2), or (3) or the payment of lease payments for a capital improvement described in subdivision (1), (2), or (3).

SECTION 17. IC 36-10-11-33, AS AMENDED BY P.L.178-2002, SECTION 137, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 33. (a) The fiscal body of the lessee shall adopt an ordinance creating a board of five (5) members to be known as the "Civic Center Board of Managers". The board of managers shall supervise, manage, operate, and maintain a building and its programs.

(b) A person appointed to the board of managers must be at least twenty-one (21) years of age and a resident of the lessee governmental entity for at least five (5) years. If the lessee is a city, three (3) of the managers shall be appointed by the city executive, and two (2) of the managers shall be appointed by the city legislative body. If the lessee is not a city, all five (5) managers shall be appointed by the fiscal body of the lessee. An officer or employee of a political subdivision may not serve as a manager. The managers serve for terms of three (3) years.

(c) Notwithstanding subsection (b), if the lessee is a city, initial terms of the managers appointed by the executive are as follows:

(1) One (1) manager for a term of one (1) year.

(2) One (1) manager for a term of two (2) years.

(3) One (1) manager for a term of three (3) years.

The initial term of one (1) of the managers appointed by the legislative body is two (2) years, and the other is three (3) years.

(d) Notwithstanding subsection (b), if the lessee is not a city, initial terms of the managers are as follows:

(1) One (1) manager for a term of one (1) year.

1 (2) Two (2) managers for terms of two (2) years.

2 (3) Two (2) managers for terms of three (3) years.

3 (e) A manager may be removed for cause by the appointing  
4 authority. Vacancies shall be filled by the appointing authority, and any  
5 person appointed to fill a vacancy serves for the remainder of the  
6 vacated term. The managers may ~~not~~ receive salaries ~~but or a per diem~~  
7 **and** shall be reimbursed for any expenses necessarily incurred in the  
8 performance of their duties.

9 (f) The board of managers shall annually elect officers to serve  
10 during the calendar year. The board of managers may adopt resolutions  
11 and bylaws governing its operations and procedure and may hold  
12 meetings as often as necessary to transact business and to perform its  
13 duties. A majority of the managers constitutes a quorum.

14 SECTION 18. [EFFECTIVE JANUARY 1, 2001 (RETROACTIVE)]

15 (a) **This SECTION applies notwithstanding the following:**

16 **IC 6-1.1-3-7.5**

17 **IC 6-1.1-10-10**

18 **IC 6-1.1-10-13**

19 **IC 6-1.1-10-31.1**

20 **IC 6-1.1-11**

21 **IC 6-1.1-12.1-5.4**

22 **50 IAC 4.2-11**

23 **50 IAC 4.2-12-1**

24 **50 IAC 10-3**

25 **50 IAC 16.**

26 (b) As used in this SECTION, "taxpayer" means a taxpayer in  
27 a county containing a consolidated city that filed:

28 (1) an original personal property tax return under IC 6-1.1-3  
29 for the March 1, 2001, assessment date using a consolidated  
30 return, Form 103-C; and

31 (2) before March 1, 2003, a Form 133 petition for correction  
32 of an error with respect to the assessed value of the  
33 taxpayer's personal property on the March 1, 2001,  
34 assessment date.

35 (c) Before January 1, 2005, a taxpayer may file an amended  
36 personal property tax return for the March 1, 2001, assessment  
37 date.

38 (d) A taxpayer that files an amended personal property tax  
39 return under subsection (c) is entitled to the following exemptions  
40 for the March 1, 2001, assessment date:

41 (1) An exemption for an industrial waste control facility  
42 under IC 6-1.1-10-9.

43 (2) An exemption for an air pollution control system under  
44 IC 6-1.1-10-12.

(3) An exemption for tangible personal property under IC 6-1.1-10-29, as in effect on March 1, 2001.

(4) An exemption for tangible personal property under IC 6-1.1-10-29.3.

(5) An exemption for tangible personal property under IC 6-1.1-10-30.

(e) The amount of an exemption described in subsection (d)(1) or (d)(2) is based on the total cost of the industrial waste control facility or air pollution control system reported by the taxpayer on a Form 103-P that must be filed with the amended personal property tax return filed under subsection (c).

(f) The total amount of the exemptions described in subsection (d)(3) through (d)(5) is:

- (1) the total cost of the taxpayer's finished goods reported on Schedule B, line 3 of the taxpayer's amended personal property tax return filed under subsection (c); multiplied by
- (2) the ratio reported by the taxpayer on the Form 103-W filed with the taxpayer's amended personal property tax return.

(g) Before January 1, 2005, a taxpayer may file with the county auditor an application for a deduction from assessed valuation for new manufacturing equipment in an economic revitalization area for the March 1, 2001, assessment date. The taxpayer shall include all necessary attachments to the deduction application.

(h) If a taxpayer files an amended personal property tax return under subsection (c) and a deduction application described in subsection (g), the taxpayer is entitled to a credit in the amount of the taxes paid by the taxpayer on the remainder of:

- (1) the assessed value reported on the taxpayer's original personal property tax return for the March 1, 2001, assessment date; minus
- (2) the assessed value reported on the taxpayer's amended personal property tax return for the March 1, 2001, assessment date filed under subsection (c).

For purposes of calculating the credit allowed under this SECTION, the assessed value reported on the taxpayer's amended personal property tax return filed under subsection (c) shall be reduced by the amount of the deduction claimed on the deduction application filed under subsection (g).

(i) The county auditor shall reduce the amount of the credit to which a taxpayer is entitled under subsection (h) by the amount of any property tax refunds paid:

- (1) to the taxpayer for personal property taxes based on the

1 March 1, 2001, assessment date; and

2 (2) before the date the taxpayer files an amended personal  
3 property tax return under subsection (c).

4 (j) Notwithstanding IC 6-1.1-26, the county auditor shall apply  
5 the full amount of the credit allowed under this SECTION against  
6 the taxpayer's property tax liability for property taxes first due  
7 and payable in 2004. If the full amount of the credit allowed under  
8 this SECTION exceeds the taxpayer's property tax liability for  
9 property taxes first due and payable in 2004, the county auditor  
10 shall apply the amount of the excess credit against the taxpayer's  
11 property tax liability in each year thereafter until the credit is  
12 exhausted. However, the county auditor may refund the  
13 remaining credit amount at any time before the credit is  
14 exhausted.

15 (k) A taxpayer is not required to file a separate application for  
16 the credit allowed under subsection (h).

17 (l) This SECTION expires January 1, 2007.

18 SECTION 19. [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]

19 (a) IC 6-2.5-4-11, as amended by this act, applies only to  
20 transactions occurring after February 29, 2004. A retail  
21 transaction to which IC 6-2.5-4-11, as amended by this act, applies  
22 shall be considered as having occurred after February 29, 2004, if  
23 charges are collected for the retail transactions upon original  
24 statements and billings dated after March 31, 2004.

25 (b) The following provisions apply to deductions for net  
26 operating losses that are claimed after December 31, 2003:

27 (1) Deductions for net operating losses that are incurred in  
28 taxable years beginning after December 31, 2003, and are  
29 carried back or carried forward and deducted in taxable years  
30 ending before January 1, 2004, must be calculated under  
31 IC 6-3-2-2.5 and IC 6-3-2-2.6, both as amended by this act.

32 (2) Deductions for net operating losses that were incurred in  
33 taxable years ending before January 1, 2004, and that are  
34 carried forward and deducted in taxable years ending after  
35 December 31, 2003, must be calculated under IC 6-3-2-2.5  
36 and IC 6-3-2-2.6, both as amended by this act.

37 (3) Deductions for net operating losses that were incurred in  
38 taxable years ending before January 1, 2004, and are carried  
39 back or carried forward and deducted in taxable years ending  
40 before January 1, 2004, must be calculated under the  
41 versions of IC 6-3-2-2.5 and IC 6-3-2-2.6 that were in effect  
42 in the year the net operating loss was incurred.

43 (4) Regardless of the applicable method of calculation in the



1           year in which the net operating loss is deducted, any net  
2           operating loss available for carry forward shall be reduced by  
3           the amount of the net operating loss previously deducted in  
4           an earlier taxable year.  
5           (c) The following provisions apply only to taxable years  
6           beginning after December 31, 2003:  
7               (1) IC 6-3-1-3.5, as amended by this act.  
8               (2) IC 6-5.5-1-2, as amended by this act.  
9           SECTION 20. An emergency is declared for this act."  
10          Renumber all SECTIONS consecutively.  
            (Reference is to ESB 247 as printed February 17, 2004.)

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Representative Cochran